

Senator Martin offered the following amendment:

Amend Section 8 by adding to the section, "when bonded and qualified."

Lost.

Senator Ledbetter offered the following amendment:

Amend by striking out, "State," in Section 8, line 3, and insert, "county."

Senator Edwards offered the following substitute:

In Section 8, line 2, after the words, "to be," insert, "furnished him by the Secretary of State for that purpose," and strike out the words, "at the expense of the State."

Substitute adopted; and, on motion of Senator Piner, the amendment as substituted was laid on the table.

Senator Terrell offered the following amendment:

Amend by striking out Section 16.

Senator Thompson offered the following as a substitute for Senator Terrell's amendment:

In Section 16, line 2, after the word, "inform," insert, "under oath in writing."

Substitute lost.

Senator Crain offered the following as a substitute for Senator Terrell's amendment:

Amend Section 16 by striking out all down to the words, "it shall be," in line 6, and inserting in lieu thereof the following:

SEC. 16. Whenever any credible person shall present his affidavit to the County Attorney, setting out that an offense has been committed, and giving the names of persons who may have a knowledge of the commission of said offense:

Accepted by Senator Terrell.

Pending the amendment, on motion of Senator Storey, the Senate adjourned until 10 o'clock A. M. Monday.

TWENTY-THIRD DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, MAY 15, 1876. }

Senate met pursuant to adjournment. Roll called. Quorum present. Prayer by Rev. Dr. Crane of Independence.

Journal of Saturday read and adopted.

Senator Crain rose to a question of privilege.

He called attention to the fact that the *Austin State Gazette*, in the publication of the Senate proceedings of last Saturday, attributed to him the following language: "Senator Crane said he did not allude to the county of Travis, where rascality and criminality are practiced, but to Huntsville." He stated that he used no such language. He had remarked only in answer to a question from Senator Terrell, "I referred to Huntsville." Also, that another error had appeared in the same connection, in the same paper. The constitutional objection to Section 16 of the bill then under consideration, at the time referred to, was not originated, as stated, by Senator Brady, but by Senator Terrell.

Senator Ford presented a petition from citizens of Zavalla county, asking that the county of Zavalla be attached, for judicial purposes, to the county of Frio.

Read and referred to Judiciary Committee No. 2.

Senator Douglass presented the memorial of citizens of Garden Valley, Smith county, asking the repeal of "An Act prohibiting the sale of intoxicating liquors within the limits of said village."

Read and referred to Committee on State Affairs.

Senator Brady introduced a bill entitled, "An Act to repeal Section 4 of an act entitled, 'An Act amendatory and supplemental to 'An Act to regulate the assessment and collection of taxes,' approved May 3, 1873; approved April 30, 1874.

Read first time and referred to Committee on Finance.

Senator McLeary introduced a joint resolution proposing an amendment to Article 5 of the Constitution.

Read first time and referred to Committee on Constitutional Amendments.

Senator McCulloch introduced a bill entitled, "An Act to make an appropriation of forty thousand dollars to complete the Agricultural and Mechanical College."

Read first time and referred to Committee on Finance.

Senator Crain introduced a bill entitled, "An Act to legitimize bastards, and to provide for their maintenance and support."

Read first time and referred to Judiciary Committee No. 1.

Senator Douglass introduced a bill entitled, "An Act to provide for the organization of railroad companies."

Read first time and referred to Committee on Internal Improvements.

Senator Piner introduced a bill entitled: "An Act to amend the seventh section of 'An Act to organize and define the powers of the Criminal District Court in and for the counties of Galveston and Harris, and to prescribe the duties thereof,'" approved July 23, 1870.

Read first time and referred to Judiciary Committee No. 2.

Senator Terrell offered the following resolution:

Resolved, That the Committee on State Affairs be instructed to ascertain, and report to the Senate as early as practicable, what railroad companies in Texas would forfeit any of their rights, privileges or grants under the Constitution, ordinances or laws in force, should the present session of the Legislature at its close find said railroad companies in their present condition; that they also report the nature of said forfeiture, and what amount of the public domain of Texas would be appropriated by railroad companies now chartered, should they hereafter complete their roads, according to their charters.

Adopted

Senator McCulloch offered the following resolution:

Resolved, That the Committee on Statistics of Industry, Public Health and History of Texas, Public Claims and Accounts, and Stock and Stock Raising, be allowed to employ one clerk, who shall do any and all labor required by these committees; and by any other committee needing his service.

Lost.

Senator Henry, of Cass, offered the following resolution:

Resolved, That standing rule of the Senate, No. 75, shall be so amended as to add the following section:

SEC. 33. Committee on Local Option Laws.

Read and laid over, under the rule, for one day.

The unfinished business was taken up, being Senate Bill No. 73, "An

Act to define the duties of County Attorneys, and regulate the performance of the same," the same being a substitute for Senate Bills Nos. 73, 74 and 86, on the same subject; the pending question being the following amendment offered by Senator Crain, on Saturday last:

"Amend Section 16 by striking out all down to the words, "it shall be," in line 6, and insert in lieu thereof, the following: "Whenever any credible person shall present his affidavit to the County Attorney, setting out that an offense has been committed, and giving the names of persons who may have a knowledge of the commission of said offense."

Senator Storey offered the following as a substitute for the pending amendment offered by Senator Crain:

SEC. 16. Whenever any credible person shall inform any County Attorney that an offense has been committed, and shall give the name of the person or persons who may have knowledge of the commission of an offense, it shall be the duty of said County Attorney, and he is hereby authorized and required to issue a subpoena requiring said person or persons to appear before him at a time and place named in said subpoena, to testify under oath to what they may know about the commission of said offense; and for this purpose, County Attorneys are hereby authorized to administer oaths. And if any person or persons shall fail or refuse to obey said subpoena, it shall be the duty of said County Attorney, if he has reason to believe that the testimony is material, on his own motion, or upon the affidavit of any credible person, to make his application to the Justice of the Peace, or Clerk of the court having jurisdiction of the case, for an attachment to compel the attendance of said witness to testify before said County Attorney, at a time and place named in the attachment: *provided*, that if the information given by said credible person be in writing under oath, the attachment shall issue as an original process, upon the written application of said County Attorney.

SEC. 17. Upon the appearance of said witnesses, it shall be the duty of said County Attorney to reduce their testimony to writing, and to cause the same to be signed by such witnesses, and if it appear therefrom that an offense has been committed, he shall, upon said testimony, file an information in the court having jurisdiction of said offense, as is provided for in Section 13 of this act.

SEC. 18. If said witness, upon his appearance before said County Attorney, shall refuse to testify, it shall be the duty of the County Attorney to reduce his questions to writing, and the reasons, if any, given by said witness for his refusal to testify, and report the same, by motion in writing, to the District or County Judge, in term time or vacation, as the case may be; whereupon, said witness may be fined and imprisoned by said Judge in like manner as District Judges are authorized to do in cases where witnesses refuse to testify before grand juries.

Change Sections 17 and 18 to Sections 19 and 20.

The substitute offered by Senator Storey was accepted by Senator Crain, and adopted.

Senator Grace offered the following amendment: Amend by striking out in Section 17, line 16, the word, "twenty," and insert the word, "ten."

Lost by the following vote:

YEAS—Senators Blassingame, Burton, Francis, Grace, Martin, McLeary, Motley, Terrell—8.

NAYS—Senators Ball, Brown, Carroll, Crain, Douglass, Ford, Guy, Henry J. R., Henry F. M., Hobby, McCormick, McCulloch, Moore, Piner, Ripetoe, Smith, Stephens, Storey, Thompson, Wortham—20.

Senator Thompson offered the following amendment to be styled Section 20:

SEC. 20. The County Attorney shall not enter a *nolle prosequi* in any case, nor dismiss the same, neither shall he agree to a continuance, nor waive an application therefor in writing on the part of the defendant: *provided*, that when two or more defendants are joined in the same indictment or information, the County Attorney may dismiss as to one or more of said defendants for the purpose of using said defendants as witnesses in behalf of the prosecution; and said County Attorney shall make affidavit of said purpose, and file the same with the papers of said case: *and provided further*, the County Attorney may dismiss any indictment or information when said indictment or information is not sufficient in law, and when an indictment or information is sufficient in law, has been filed against the same defendants for the same offense, or when he states the reasons for the dismissal in open court and the same are approved by the court.

Senator Crain offered the following as a substitute for the amendment offered by Senator Thompson:

The County Attorney shall not dismiss a case, unless he shall file a written statement with the papers in the case, setting out his reasons for such dismissal, which shall be incorporated in the judgment of dismissal: *provided*, that no case shall be dismissed without the permission of the presiding Judge, who shall be satisfied that the reasons set out in the said statement are good and sufficient to authorize such dismissal.

The substitute was accepted by Senator Thompson, and adopted.

Senator Thompson offered the following amendment as Section 21.

SEC. 21. The County Attorney shall not take any fee, article of value, compensation, reward or gift, from any person whomsoever, to prosecute any case which he is required by law to prosecute; nor shall he take any fee, article of value, compensation, reward or gift, from any person whomsoever, in consideration of, or as a testimonial for his services in any case which he is required by law to prosecute, after said case has been tried or finally disposed of.

Senator Piner offered the following as an amendment to the amendment offered by Senator Thompson:

"Nor shall a County Attorney accept any property, note or written obligation, in lieu of the fee allowed him by law."

Accepted by Senator Thompson.

Senator Crain moved to strike out the amendment to the amendment offered by Senator Piner.

Senator Douglass moved to lay the motion of Senator Crain on the table.

Lost by the following vote:

YEAS—Senators Brady, Douglass, Guy, Henry F. M., Piner, Thompson—6.

NAYS—Senators Ball, Blassingame, Brown, Burton, Crain, Edwards, Francis, Grace, Henry J. R., Hobby, Martin, McLeary, McCormick, McCulloch, Moore, Motley, Ripetoe, Smith, Stephens, Storey, Terrell, Wortham—23.

The question then recurring on the motion of Senator Crain, to strike

out the amendment to the amendment offered by Senator Piner, was carried by the following vote:

YEAS—Senators Blassingame, Brown, Burton, Carroll, Crain, Edwards, Francis, Ford, Grace, Henry J. R., Hobby, Martin, Moore, Motley, Ripetoe, Storey, Terrell, Wortham—18.

NAYS—Senators Ball, Douglass, Guy, Henry F. M., McLeary, McCormick, McCulloch, Piner, Smith, Thompson—12.

The amendment offered by Senator Thompson was then adopted.

Senator Terrell offered the following amendment:

Strike out the word, "instructions," in Section 3, line 8, and insert the words, "advice in writing."

Adopted.

The bill, as amended, was then ordered engrossed and read a third time.

On motion of Senator Storey, the rules were suspended to put the bill on its final passage:

YEAS—Senators Ball, Blassingame, Brady, Brown, Burton, Carroll, Crain, Douglass, Edwards, Francis, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Martin, McLeary, McCormick, McCulloch, Moore, Motley, Piner, Ripetoe, Smith, Stephens, Storey, Terrell, Thompson, Wortham—30.

NAYS—None.

The bill was then passed by the following vote:

YEAS—Senators Ball, Blassingame, Brady, Brown, Burton, Carroll, Crain, Douglass, Francis, Ford, Grace, Guy, Henry J. R., Henry F. M., Hobby, Martin, McLeary, McCormick, McCulloch, Moore, Motley, Piner, Ripetoe, Smith, Stephens, Storey, Terrell, Thompson, Wortham—29.

A message was received from the House, announcing the passage of House Bill No. 120: "An Act to fix the amount of jury fees in the District and Justices' Courts."

Senate Bill No. 28, "An Act to fix the per diem pay of members of the Fifteenth Legislature," was taken up, pending an adverse report from committee.

On motion of Senator Douglass, the bill was laid on the table.

Senator McLeary in the Chair.

House Bill No. 26, "An Act to amend Article 3450 of the penal code," being Section 2 of "An Act concerning divorce and alimony" (Paschal's Digest), passed January 6, 1841, was taken up and read third time.

Senator Piner offered the following amendment:

Amend by inserting at end of Section 1 the words, "*provided*, the husband has not been convicted on the testimony of the wife, or the wife on the testimony of the husband."

Adopted.

The bill, as amended, was then passed.

The special order was then taken up.

Senate Bill No. 21, "An Act to regulate and define the manner in which sales of land and personal property shall be advertised under execution or order of sale, by Sheriffs, Constables or other officers," was taken up.

Senator Storey offered the following amendment, to be added to the end of Section 1:

"*Provided*, that no publication in a newspaper shall be required unless demanded by the defendant, or person whose property is to be sold,

or in cases where judgments have been rendered by default, where service has been had by publication."

Mr. President in the chair.

Senator Moore moved to lay the amendment offered by Senator Storey on the table.

Lost.

The amendment was then adopted by the following vote:

YEAS—Senators Ball, Carroll, Edwards, Francis, Grace, Henry J. R., Henry F. M., Hobby, Martin, McLeary, McCormick, McCulloch, Storey—13.

NAYS—Senators Brady, Brown, Burton, Crain, Douglass, Ford, Guy, Moore, Piner, Ripetoe, Stephens, Thompson—12.

Senator Edwards moved to strike out the amendments heretofore offered by the committee to Section 4, and adopted by the Senate.

Carried.

Pending the further consideration of the bill, on motion of Senator Martin, the Senate adjourned until 10 A. M. to-morrow.

TWENTY-FOURTH DAY.

SENATE CHAMBER,
AUSTIN, TEXAS, May 16, 1876. }

Senate met pursuant to adjournment. Roll called. Quorum present. Prayer by the Chaplain.

Journal of yesterday read and adopted.

Senator Grace presented the petition of numerous citizens of Lamar county, "asking that all levies of occupation taxes heretofore made shall be suspended, and that no law shall be passed requiring any further levies as occupation taxes, as all such are unequal and oppressive in their nature."

Read and referred to Judiciary Committee No. 1.

Senator McLeary, from the Committee on Educational Affairs, submitted the following report:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Educational Affairs, to whom was referred Senate Bill No. 30, entitled, "An Act to authorize the Secretary of State to furnish certain books to libraries of law schools," have had the same under consideration, and instruct me to report the bill back to the Senate and recommend that it do pass. McLEARY, *for Committee.*

Senator Piner, Chairman of the Committee on Judiciary No. 2, submitted the following reports:

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary No. 2, to whom was referred Senate Bill No. 112, entitled, "An Act to amend an act to adopt a penal code for the State of Texas," approved August 28, 1856, have had the same under consideration, and beg leave to report the same back favorably, and recommend that the same do pass. PINER, *Chairman.*

Hon. R. B. Hubbard, President of the Senate:

Your Committee on Judiciary No. 2, to whom was referred Senate Bill No. 97, entitled, "An Act to amend the first section of an act to provide for a change of venue in civil cases," approved April 17, 1874,